

SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are NecessarySections 31-137.241, 31-137.242 and 31-137.243Specific Purpose:

This section was adopted to establish the requirement that a county CWS or probation agency ensure that the physical environment where a child in transitional care is located is free from undue hazards. This requirement will apply regardless if the child in transitional care is located on county property or is located elsewhere, including county vehicles used to transport a child or a facility such as an assessment or receiving center operated by a third party.

Factual Basis:

The requirement that the county CWS or probation agency provide a physical environment that adequately protects the health and safety of the child including, but not limited to, adhering to local zoning, safety and building ordinances. Accordingly, to ensure the health, safety and welfare of a child in transitional care, a requirement protecting that child from hazards in his/her immediate physical environment is necessary.

As an additional necessity for the Initial Statement of Reasons that was made available during the 45-day public comment period, proposed Section 31-137.241 is necessary to ensure that children are housed in safe and healthy environments during the transitional pre-placement period. The transitional pre-placement environments are not licensed; therefore, are not subject to the health and safety standards of licensed children's residential facilities. Adding this section ensures that the health and safety standards of the local building and zoning ordinances are applied to these transitional pre-placement settings. Local ordinances set forth health and safety standards for construction, occupancy and maintenance of residential and commercial structures including CO2 and smoke detectors, sprinklers, wiring and other code requirements. These ordinances are already in place and are updated on an on-going basis, which ensures that the transitional pre-placement settings will be safe and healthful on an ongoing basis without writing and continually updating regulations. Without the addition of this section the Department could not ensure that children were housed in a safe and healthy manner during the transitional period.

As an additional necessity for the Initial Statement of Reasons that was made available during the 45-day public comment period, proposed Sections 31-137.242 and .243 are necessary to ensure that the physical furnishings and bathroom/bathing fixtures are maintained in good condition and working order and that sleeping arrangement and privacy concerns are addressed. The transitional pre-placement environments are not licensed; therefore, are not subject to the health and safety standards of licensed children's residential facilities.

Adding Section 31-137.242 requires the social worker or probation officer to consider the condition of the furnishings as well as the arrangement of sleeping areas to ensure safety and privacy. This section ensures that the sleeping furnishings are in good condition; there are no splinters, loose hardware, lead paint or unhealthful bedding. Children enter the child welfare system as the result of abuse and neglect, creating a need for safety and privacy to avoid stimulating traumatic memories or reactive behaviors. This section requires that consideration be given to the ages and genders of children who are housed together in sleeping areas as well as specific trauma-induced needs of children. Some children may also need a crib or safety rails or to sleep with a stuffed animal or a sibling. Without the addition of this section children may be exposed to sleeping areas that are dangerous physically or psychologically.

Similarly, adding Section 31-137.243 requires the social worker or probation officer to consider the condition of the bathroom and bathing facilities to ensure safety and privacy. This section ensures that toilets, sinks, tubs and showers are available and in good working order (i.e., toilets flush, sinks/tubs/showers have hot and cold water, water temperatures are regulated). The same considerations are ensured for privacy and age-appropriate use of the facilities to avoid eliciting trauma.

Sections 31-137.31

Specific Purpose:

This section was adopted to ensure that the length of time a child remains in a transitional care assessment or receiving center or other unlicensed child care facility or location shall be less than 24 hours. This section also requires documentation of stays of 24 hours or longer.

Factual Basis:

Community Care Licensing law requires the operator of a child care or residential facility that provides care for a 24-hour period or longer to have a license as specified in H&S Code section 1502. Therefore, a center that provides care and supervision to a child in transitional care for a 24-hour period or longer is operating in violation of law. This rule is necessary to ensure that the county CWS or probation agency is not placing a child in transitional care in a location that is operating in violation of law. Documentation of stays of 24 hours or more is necessary to address noncompliant overstays.

As an additional necessity for the Initial Statement of Reasons that was made available during the 45-day public comment period, the language proposed in Section 31-137.31 states that because the child is transitioning for fewer than 24 hours, documentation needs to be made as soon as possible to ensure that the county is aware of the location of the child. Staff professional's opinion is that 12 hours provide enough time for the social worker to perform the actual placement and services without risk that the documentation will not happen within the 24-hour time frame. This way, the county will have reasonable access to information to know where a given child is placed during the transition.